

The Library of Congress'

EARLY STATE RECORDS PROJECT

converted from the original microfilm held by the
Vincent C. Immel Law Library, Saint Louis University

through the generous support of a grant from the

Council on Library and Information Resources

GOVERNOR'S MESSAGE,

By LIONEL A. SHELDON.

January 2, 1832.

Gentlemen of the Council and House of Representatives:

New Mexico has an area of one hundred and twenty-two thousand square miles. Though a mountainous country there are numerous valleys, some of them considerable in dimension, and all possess great fertility. The southern boundary is not far from the tropic of Cancer, and the Territory lies in the semi-tropical region, yet altitude confers all the benefits without the disadvantages of a more northern clime. These happy conditions enable the people even under an imperfect system of cultivation to excel in the production of all the cereals and vegetables of the temperate zone both as to quantity and quality. Domestic animals of every species whether destined for food or labor or other use are prolific, healthy, and may be raised at the slightest possible cost. Springs and perennial streams exist in such numbers that if economically utilized, will supply the demands of numerous flocks and herds, and the machinery employed in extensive manufacturing industries. Considerable timber and vast beds of coal will supply the wants of a large population for many centuries. The climate is salubrious and attractive. Minerals, both precious and of the baser kind, are abundant in all the mountains. Delicious fruits, embracing the varieties of the temperate and semi-tropical latitudes, may be grown to an unlimited extent. No portion of the

mountain regions of the United States has such an extent and variety of resources as New Mexico. By railroad the Territory is already in communication with the Pacific Ocean and the great cities of the north west, and before your immediate successors convene we shall be engaged in trade with people on the Gulf coast, in the lower Mississippi valley and in the very heart and center of the Republic of Mexico. Geographical position compels the great continental overland thoroughfares, to traverse this Territory from east to west and from north to south. The population of the United States slightly exceeded fifty millions by the census of 1880. Natural increase is sufficient to make a great State each year. Immigrants are pouring in seeking room and homes. The more accessible portions of our country are already well occupied, and the tendency of immigration will be towards sections least settled and most attractive. The advantages and inducements which have been briefly described will turn the tide hitherward. Immigration is already considerable and the increase will be limited only by the extent that information of the great resources of New Mexico is imparted to the people of the United States and other nations.

The destinies of such a country, gentlemen, are in your hands for a limited period. You have been chosen by the people to guard their interests and promote their welfare. They have elected you because they believed you to be the fittest in their midst to understand their wants, and the most capable and most disposed to discharge to their advantage the great duties and responsibilities imposed on you. The times are auspicious. Peace and good feeling prevail. The pall of financial distress does not rest upon any portion of the land. The spirit of enterprise and the strong arm of industry are present everywhere. The American people are ambitious for material prosperity, for the prevalence of fraternal and national feeling in all sections, for those agencies which develop the highest types of manhood among all the people, which results can only be attained through measures of wise and efficient protection—universal and untrammelled education—and the intelligent and faithful discharge of every duty by those holding official positions. These are the main fields wherein government may make itself useful. Relying

upon the wisdom of the people's choice and believing in your intelligence and virtue I feel assured that the true spirit of this progressive era will be reflected in your legislation, and that the present session will in future time be recognized as a landmark in the history of the Territory.

The highest and dearest interest of mankind is security to life, property and reputation. As in all new countries when immigration is setting in rapidly, New Mexico will be visited by many who choose to subsist by dishonorable conduct and crime. The population here is scattered, and society is not thoroughly organized. Under such circumstances crime is not so easily detected and offenders punished as in countries where people are more numerous and the machinery of government more complete. Savage Indians are about us, and the cañons and crags which abound, enable them, and base white men as well, to depredate and to conceal themselves where they feel safe from pursuit and capture. Organized, vigorous States adjacent to us are driving the bad elements from their borders, and they naturally come to New Mexico as a promising theatre in which to prolong a carnival of crime. Efficient courts, honest and intelligent juries, are agencies for the ultimate suppression of crime. Courts can not convict and punish until offenders are brought within their power, nor is the usual physical force of the courts sufficient to suppress mobs or disperse unlawful combinations, nor are such powers conferred upon the judiciary. They belong to the executive department whose duty it is to preserve peace and order and to see that the laws, and the judgments of the courts are executed. The executive must be supplied by the legislative department with the means to discharge his duties. The ultimate resort is to a military force, and it must be supplied by the people themselves through militia organizations. The policy of the American people has been to have but a small standing army, and to place their reliance upon a well organized militia. Though the nation has had several wars, this policy seems to have caused no very serious detriment. To be a soldier of the republic and in the cause of the people has ever excited the pride of the American, and no more honorable position can be contemplated than that of a volunteer in a popular militia organization, whose duty is to

put down the violators of law—the disturbers of peace—and to protect the weak and helpless. Such a force should be thoroughly organized, and disciplined as much as possible. And this force should be of sufficient strength, and the powers of the executive should be broad enough to enable him to execute processes and judgments of the courts, to prevent Indian depredations—to summarily suppress mobs—and break up combinations which endanger the public peace, or interfere with the legitimate pursuits of the people. The militia force ought to be paid and supplied when called into active service. It is the part of wisdom to apprehend that for some time to come we shall be liable to Indian troubles, and that desperadoes will be more numerous as population increases, and this condition will continue at least until it becomes generally understood that New Mexico is unsafe for any but honest men.

To confer these powers cannot be dangerous, for it is not probable that any executive would so forget or disregard his duty as to negligently or wantonly abuse his powers, and should one be placed here with such a want of intelligence or sense of moral responsibility as to furnish cause of grievance, an intelligent and watchful people would be quick to detect and report the act to the the Chief Magistrate of the United States who would be ready to listen, and to speedily remove.

The existing militia law is exceedingly deficient, and in no essential respect corresponds with similar laws of the States. In the effort to be prepared to protect the people against a repetition of Indian raids I have been compelled to resort to a most liberal and perhaps doubtful construction in order that the force which has been organized might be of any value whatever. The statute authorizes the enlistment of a thousand volunteers for a term of six months. Every one who has had experience in the organization of troops readily understands that under the most favorable circumstances, that by the time such troops can be of any use the term of service will have expired. Had I resorted to this method the Territory would have been put to great expense without deriving any benefit. There is no authority to purchase arms, and there were few on hand, and those were indifferent in kind. The previous legislature, I presume, supposed arms could be obtained

from the United States. New Mexico is already considerably in debt to the general government for arms and ammunition. The law requires the Secretary of War to issue arms to the Territories in excess of those to which they are entitled under the annual appropriation by Congress, only to protect the people against Indian hostilities, and such arms only as are discarded by the United States Army. It will be many years before the account for arms and ammunition against this Territory will be squared by the operations of the annual allowance under Congressional appropriations. The act also authorizes the formation of independent companies whose term of service is not specified. They cannot be required to serve outside their respective counties, and there is no authority to pay or supply them when in service in their counties. Thus it will be seen that the Territory cannot have any militia force to be used anywhere within its limits except the volunteers who will make expense from the time the organization is commenced, and when the term of six months has expired there will not be any means to protect the people except to repeat the effort to raise volunteers.

The law should provide for the organization of militia companies whose term of service should be for two or three years, and who can be required to perform service anywhere in the Territory, and when in service that they be paid and supplied. The power to take the troops from one locality for service in another, especially in cases of mobs or unlawful combinations will obviate the effect of local prejudices and sympathies. In this manner there will always be an effective force without expense, except when actually performing service for the public. In the preparations I have made to protect the people I have organized independent companies with the distinct understanding that they shall obey my orders and serve anywhere in the Territory, with a promise, on my part, that the moment they take the field they shall be treated as volunteers and be paid and supplied as the law allows for the time they serve.

The last legislature appropriated a hundred thousand dollars for militia purposes. Upon the face of it the appropriation is liberal. However there never have been but a few thousand dollars in the treasury at any one time. Though the assessed value

of property for the current year is much above that of other years, the Territory will not be able to collect so closely, that the revenues, including licenses, will very greatly exceed a hundred thousand dollars. Had much expense been made in operations against Indians it could not have been paid in cash, but by the issuance of warrants, which would not have sold for more than fifty per centum of the face value, or the price of everything supplied for the troops would have been charged for at a double value, which would have vastly increased the cost of military operations. The court costs and other expenses of Territorial government must be met, and when this is done it will be plainly seen that there is very little available means to support militia forces. There ought to be authority to borrow money on the credit of the Territory, under proper limitations, when an emergency arises, that its credit may not be impaired. Since the adjournment of the last legislature the expenditure for militia purposes has been but \$4,759.53, and in this period occurred what is known as the Lincoln County war which occasioned nearly one-half the expenditure. There was some expense incurred during the Victorio raid, and in the successful effort to rid the county of Rio Arriba of large gangs of merciless and obstinate desperadoes. The report of the Adjutant General will fully disclose what has been done in the organization and employment of militia companies and the whole operations of the executive department on this subject.

Should Indians make another demonstration it is most important that it should be met in such manner and spirit that it will be the last. Generally there is safety and order in the entire Territory. However, the southern portion of Grant County has recently been infested by an organization of "rustlers," and desperadoes, who prey upon the people of this and our sister Territory of Arizona, and who have defied the civil authorities. It is due to the people and the cause of good government that such organizations should be broken up and the offenders brought to condign punishment. To accomplish this I apprehend that the employment of the militia forces of the Territory may be necessary. I do not see how this can be done under existing law except to send the militia as a posse of a civil officer. Such officers



are without authority until armed with judicial writs. These cannot be procured because the people are unable or afraid to appear as witnesses against these marauders. At any time and elsewhere similar organizations may arise—mobs may take place, and must be dealt with severely and summarily. The employment of the militia in such emergencies will make some expense which must be promptly met if efficiency is expected. It will be my purpose so long as I hold my present position to see that the public treasure is not squandered, but I shall not stop at any expenditure absolutely necessary for the preservation of peace and order and the fullest protection of the people. Measures of protection will lead you to the consideration of questions of revenue which I shall discuss when that topic is reached.

A wise people will not rely upon repressive measures alone to secure peace and order, and avoid crime. There are preventive agencies to be brought into activity which will do much to render force unnecessary. The great danger of the present time is from immigrant criminals who must be deterred by certain and severe punishment. The government will be derelict in the discharge of duty if it does not put into active and effective operation all the civilizing influences of this advancing age, and especially such as will tend to prevent the development of criminal disposition among the permanent population. Religious and moral instruction—general intelligence and universal education are potent influences in securing to society exemption from disorders which afflict communities where impiety, immorality and ignorance prevail. It is not within the province of any government in the United States to legislate on the subject of religion. The Constitution, framed by men who represented every sect, wisely leaves the subject of faith and worship to the conscience of each individual. The governments of the Nation and the States have ever recognized and encouraged religious worship as a means of making men better citizens. No inhibition however, relates to the subject of education. The duty to encourage and aid it is imposed, and it is peculiarly within the province of each local government to provide a system that will secure its blessings to the whole people without any distinction whatever. In a popular form of government the necessity for general intelligence is greater than

elsewhere—and to provide for it should be one of the first acts of the people of a Territory, who are in the condition of an apprentice learning a trade—or like one in a practice ship, acquiring the knowledge and skill necessary to manage a vessel at sea. It is unnecessary to impress this duty upon you. The Christian world reflects the grand results from the spread of intelligence among the masses. Religion, philanthropy, economy, happiness, security and experience combine in commending an effective system of universal education.

It should not be inferred from the observations I have made that previous legislatures have wholly neglected this important subject. Many acts have been passed from time to time, and in them some excellent features are visible. A difficulty lies in numerous amendatory acts, which follow a practice now discontinued, that of concluding with the language. “All acts and parts of acts inconsistent with this act are hereby repealed.” This condition creates conflict of opinion in the matter of construction, and greatly embarrasses in the execution of the law. Under the numerous acts on the subject I think it is difficult to determine what the system is, or in fact whether there is any system at all. Under these circumstances it seems to me to be the part of wisdom to pass an act which shall cover the whole ground and which shall repeal and supercede all previous laws on the subject. The present rate of taxation for school purposes is in my opinion ample, and is all that the people can reasonably afford to pay. The features of such an act should embody all the general principles adopted in the school laws of the most advanced States. All the children between proper ages should be educated at the public charge in what are commonly known as the common branches, and schools should be established so generally as to make it convenient for all to attend. The sparse population in many localities presents difficulties which all will recognize, and which cannot in some instances be overcome. The money for school purposes should be distributed to districts or precincts in proportion to the number of persons within the ages entitling them to school privileges. The system should have Territorial management by some competent officer and each county should be placed under charge of responsible officers, and every district or

precinct should be managed by directors or trustees chosen in them respectively. That the higher branches may be taught to those who desire to study them, county officials should be authorized to provide schools for that purpose. Above everything the law should contain such provisions as will insure the employment of only such persons for teachers who have good moral characters and are competent. Great complaint is made that in some localities schools are not established though taxes are paid, and in others that incompetent persons are employed—and that in some instances persons are employed and paid as school teachers and assigned to service as herders. A comprehensive and efficient law is the first necessity, which should contain such penal provisions as will insure its faithful execution. The law of this Territory to-day makes education compulsory—and it is a principle enforced by several governments in this country and abroad. No child should be deprived of the means of education, in consequence of the indifferent or selfish disposition of him who has control as parent, guardian or otherwise. Such a measure will induce immigration—will secure material prosperity, and good order. It will be popular, for none will oppose except those who hold money as more desirable than progress, public prosperity, human happiness and life itself.

The judiciary of a Territory is dual in character. In all matters relating to local jurisprudence it is under the control of the legislature. The jurisprudence of this Territory is not certain nor well defined. It is the experience of all countries that a system can become certain and stable only through the labor of able and impartial judges, whose conclusions as to the construction of statutes and the rules which govern personal and property rights become precedents which shall govern in the administration of justice, and afford light and guides to legislatures. Legal rules are perfected through years of experience. That the wisdom of judicial decisions may be made available and the practice uniform under whatever system may prevail, intelligent governments provide that these decisions shall be published and preserved. This has never been done in New Mexico. Unless this is done it may be expected that fluctuations and uncertainty will continue to characterize judicial rulings—that without precedents judges will fol-

low their own individual opinions—lawyers cannot advise their clients with proper certainty—official duties will be performed in a lax or improper manner and the people will not have the means to definitely learn their rights and duties.

The common law practice which prevails here is technical, difficult to learn, and is quite incomprehensible to the people. It abounds in fictions and technicalities which do not promote the ends of justice but tend to confuse and prolong litigation by the introduction of issues foreign to the rights involved in a case. Most of the States have abolished the practice altogether, while others have so far modified it as to remove the most objectionable features. The general tendency is to the simplification of judicial proceedings, and to destroy the terrible mystery formerly existing. It would be well to adopt some measure that will as speedily as possible provide for this Territory a practice of modern features, and under which simplicity and celerity may be attained.

It is a principle underlying our institutions that judicial trials should be impartial, that is to say that neither the law nor the courts shall give any advantage to either one of the litigants. It is also a rule of public policy that differences should be brought to a speedy termination and at as little expense as is consistent with the ends of justice. These observations are made with reference to the subject of the change of venue. The law relating to the first application is as follows. “The venue shall be changed in all cases, both civil and criminal, to the nearest county free from exceptions when the judge is interested or when the party moving for a change shall make oath that he cannot have justice done him in the county in which the suit is then pending, setting forth the cause of such obstruction of justice, which oath must be supported by the additional oaths of at least two disinterested witnesses, provided that neither party shall be allowed to change the venue in the same case more than twice.” When the judge is interested the case is necessarily sent out of the district, for his interest would be the same in every county in his district. I learn that the venue is seldom changed on this ground because a judge from another district takes the place of the interested judge. This practice suggests that the law should

require another judge to go to the county where such case is pending and try it. It does not so require him, and any party who wants delay, or to be vexatious, can compel a change of venue under the present law.

The other ground of change is really because an impartial jury cannot be obtained in the county where the suit is pending. This is a question of fact that is issuable, and ought to be decided by a disinterested party. As the law now stands, a party himself may practically dispose of the question of fact in his own interest. The motion to change the venue is an attack upon the fair-mindedness of the citizens of a whole county. It is a very rare case that knowledge of the subject matter of controversy in a law suit is extended to any considerable portion of the people, even in the smallest counties, where means of acquiring knowledge are the most abundant, and men are not as apt to form fixed and immovable opinions on such subjects as they were formerly supposed to be. In this Territory the counties are very large, and sparsely peopled, and inter-communication is not rapid or frequent. The issues in a civil suit rarely attract attention or excite interest. A man whose case is bad will resort to the easy way of obtaining a change of venue to gain time. A criminal whose case is desperate, will avail himself of this privilege, that he may have opportunity to escape, and such events are not unfrequent from the frail and unsafe jails of New Mexico. Heavy expenses are incurred by the Territory when the cause of justice is not subserved. Because robbers and assassins escape when their trials are long delayed, an injured people find excuses for a resort to the operations of the *vigilantes*, an unlawful organization, which never is formed in the United States, unless there is a defective execution of the law, and criminals are not brought to speedy trial and deserved punishment. The usual rule is to let the change be made by the Court, after hearing the evidence in the case, and then each party will be placed on a footing of equality—justice will quite as likely be done as now—litigation will the sooner terminate, and much expense and great trouble will be saved.

This Territory is divided into three judicial districts. Two districts comprise three counties each—one embraces six. The

smallest district is greater in extent than many of the States. In none of the counties are the taxes closely collected, and in several the delinquent list is large. Criminal business will increase with the growth of population. There are public interests that demand constant attention. One attorney in each district is not sufficient to do all this work effectively. He necessarily resides remotely from the greater part of his district and cannot have that knowledge of events as they transpire, and of the circumstances as they exist, which is necessary to a prompt and effectual preservation of the public interests. He does not as a rule, and cannot without great inconvenience and expense, go to the county in which he does not reside until the judge goes, and when the court opens the prosecutor commences the preparation of his cases, and by the time he has completed it, the court has completed the term and adjourns. Suits for taxes go over from term to term, and at last the tax is lost altogether. The public loses the benefit of that well known principle that certain and prompt punishment is essential to the prevention of crime. These inevitable obstructions to the preservation of the rights and interests of the public may all be removed by providing for a prosecuting attorney in each county. He will always be on the ground, and constantly cognizant of what is transpiring—and may be always ready to proceed with the public business when the court opens. It confers on each county local autonomy. I am informed that it is customary to retain grand juries during the entire terms of the courts, that the district attorney may secure the attendance of witnesses who are not summoned until the courts open. If a prosecutor lives in each county, preparation of cases can be completed before the judge arrives, and be presented to the grand juries at the beginning of the term. Grand juries can pass upon all matters laid before them in a few days, and receive their discharge and go home, which will save no inconsiderable expense to the Territory. I estimate that this unnecessary expense cannot be less than five thousand dollars annually. It is well to have in each county a law officer who can be consulted with convenience by the officers, and who can supervise the proceedings of examining courts, and see that cases are not sent to the higher

courts improperly, which makes costs unnecessarily. Desperadoes and "rustlers" are migratory in their operations. They seek places where they can best apply their practices; sporadic cases appear here and there, showing the necessity of having a law officer at every county seat to institute proceedings promptly for the arrest and punishment of offenders.

It is said when the district attorney law was passed the majority of the counties were without competent men for public prosecutors. That condition has generally passed away. Some of the counties now have no resident lawyers, but it would not do harm to send some good young lawyers to such counties who would gladly go and reside if they are assured of some support while they are building up a practice and establishing reputation. Lawyers are necessary, and all the counties ought to have them. Such a change would not increase expenses as the fees and compensation now allowed one would be divided among several. If proper care is taken capable men can be found for all the counties, and those of distinguished talent and high character now reside in most of them. Let the law be so framed that the attorney general can be required to attend and try important cases in any county. This will secure to the Territory competent counsel in every case.

No government can be efficient without a revenue that is reliable, and ample for the support of its necessary agencies. Governments that are embarrassed and discredited are necessarily weak. It is not economy to do the public business on credit. It is like employing laborers on mere promises to pay. Whenever the obligations of any government are not paid at maturity it is at once discredited, and speculation in its paper commences to the serious injury of those who have performed service, and to the public reputation. If it has to make purchases prices are put up to cover the loss arising from depreciated warrants, and this imposes an expense upon the people which ought not to be endured. Public officers should receive compensatory salaries or fees which should be regularly and promptly paid. This will tend to secure the best possible service. Rigid economy should be practiced in every branch of the government. The law ought especially to define the compensation awarded and to leave as little as possible to

the discretion of officials. It is not liberal salaries that embarrass the finances or excite suspicions of dishonesty, for this can be provided for with accuracy and the people understand what they are. The great expense comes from jobs—and leakages which are multiplied indefinitely and are continual. These things operate like the seepage of water, which is scarcely noticeable, but which exhausts by its ceaseless operations. There are not sufficient legal checks to prevent leakages. The Auditor, for instance, doubts if he can question the certificate of a judge as to court expenses. Reliable information has come to me that expenses are made by the courts in some instances which are without warrant of law. A stenographer in some courts is employed and paid from the public fund. This is unauthorized. It is not alluded to because a court stenographer is objectionable; on the contrary I think such an officer is useful, but the legislature must first authorize his employment. I am also informed that it is customary in some courts to pay an interpreter more than the law permits. And it is also stated on the best of authority that two of the judges are in the habit of certifying to their traveling expenses as a part of the court costs. Inquiry shows me that this is without precedent and I concur in the opinion of several able lawyers whom I have consulted that this allowance is entirely without warrant in the law.

It will appear from the reports of the Auditor and Treasurer that the great source of expense is in the courts, and especially in the offices of the sheriffs and clerks. Legislation seems to have been enacted especially for the benefit of the former, and the courts have taken good care, in some instances at least, that the liberal spirit of this law should not be offended in the approval of the sheriffs' bills. Chapter 46, Article 21, Compiled Laws provides liberal fees for the services of sheriff's. The act approved January 30th, 1865, repeals the law as to sheriffs' fees in criminal cases, and substitutes a per diem during the sessions of the court, and a fee for summoning the grand and petit juries. But by the act approved January 27, 1869, the fee bill of the Compiled Laws is restored without repealing the per diem, so that sheriffs receive both. This is the construction placed on these acts by the courts and I do not see how the holding can be successfull- com

bated under the ordinary rules of construction. The double compensation thus given must be the result of inadvertence on the part of the legislature, and suggests that the closest scrutiny is demanded, especially of acts authorizing expenditures of money.

By the act of February 3rd, 1870, the courts are authorized to order a just compensation for any services performed by any officer of the court and for which no compensation is provided by law, to be paid by the party for whom service is performed. The second section of the act approved February 12th, 1880, provides that the costs, charges and expenses of holding and maintaining the district courts, and the costs in cases determined against the Territory, shall be paid by the Territory.

These statutes have been given a most latitudinous construction in the direction of taking money out of the public treasury by some of the courts. Liberal bills for stationery, postage, and in some instances "sundries" have been allowed. To my mind these and similar allowances are not authorized by law. It is but just to say that no such bills have been allowed in the third judicial district, and but one, and that very small, in the second. The purpose of the 2nd section of the act of February 12th, 1880, is to change the payer of the "costs, charges and expenses" from the several counties to the Territory, and it does not by express language, or by implication, enlarge the costs, charges and expenses, but leaves them precisely as they were. Yet the judges of the first and second judicial districts have been so liberal in their construction as to make that statute embrace their individual expenses in whole or in part when holding the courts. In the first district, especially, the sheriffs' bills are generally not itemized but are omnibus in their character, embracing items not especially authorized by law, nor by any implication, even, and yet they are approved and paid, and in many cases they seem to be outrageously exorbitant; and in some instances the accounts embrace items that should be paid by the county and not the Territory. It is unnecessary to go into a minute discussion of the court allowance to the sheriffs and clerks for enough has been said to show the necessity of some restrictive legislation. Discretion should not be granted to any official as to the expenditure of the public funds except in absolutely necessary cases.

In guarding against leakages, the law should not be so restrictive as to cripple the courts or any other branch of the government. Generally the sum to be paid for any service or article furnished can be specifically stated. The auditor stands in the vestibule of the treasury, and it is his duty to challenge every bill presented for payment. If he were forbidden to pay any claim unless authorized by the statute there would be a check upon such practices as have improperly taken money from the treasury. Wherever services are required or expenses are necessary, and which cannot be specifically provided for by statute, and the sum to be awarded must be fixed by some officer or judge, the action of the latter would necessarily control the action of the auditor. Such cases, however, are so few, that serious depletion of the revenue need not be apprehended.

As population increases, and the machinery of government becomes more extended and complete, it must be expected that expenses in the aggregate will become greater. The rate of taxation need not necessarily be raised, because increase of taxable property ought to keep pace at least with the growth of expenses. The last assessed value of taxable property in the Territory is \$19,523,624.70, and if the tax thereon were wholly collected, the general treasury would receive \$97,436.99, from this source alone. The actual amount received from all sources will fully appear in the reports of the auditor and treasurer. Any one at all conversant with the Territory must be convinced that the taxable property is more than double the value returned by the assessors, so that with a full and fair appraisement the revenue would be nearly doubled, and if closely collected, as the taxes ought to and may be, the succeeding legislature may reduce the present rate of taxation. A large increase of taxable property should ordinarily operate to reduce the rate. Property will not be fully and fairly valued under the present system. It is a principle of all good government that taxes shall be equal and uniform. It is right that each person shall contribute from his property in proportion to the protection he receives. An able, impartial, thorough and honest man should hold the office of assessor, and should himself fix the value of property to be taxed. The existing law makes each man his own assessor.

In the very nature of things this will not secure a full return of property, nor a fair valuation. Man is so constituted that property for sale appears to be worth more than property for taxation. In one case money is to be received, in the other to be paid out. A very good man is under the influence of selfishness to put his property down to a low figure, and a bad man will perpetrate an absolute fraud on the public. Lord Mansfield said that when a man could decide impartially in his own cause, he had reached the summit of human virtue. Too many men are apt to regard taxation as a species of legalized robbery, and that it is not grossly immoral to withhold that which is due the government. It seems to me that it would be better to have an assessor in each county, with no other public duty, who shall be required to list and value all property which is taxable, and that he be compensated sufficiently and in such manner as will secure faithful and impartial service.

The collection of taxes promptly and fully is most essential. It is not only necessary to maintain government, but duty to the people demands that no one shall escape his share of the public burdens. The reports of the auditor and treasurer show that delinquency is very great. How much fault lies at the door of the collectors and how much should be charged to the methods prescribed in the law I will not undertake to state. This seems certain that collections will not be closely made until the law provides summary processes. The slow methods of suit, judgment and sale are not in favor nor in force in the best governed states. Existing laws make the tax on real estate a lien, but the practice is to resort to a suit, and in the hands of the most vigorous officer cannot be collected sooner than a private debt. Experience shows that a private right is enforced much more speedily than that of the public. It is due those who pay regularly and promptly that those who neglect or refuse, shall be compelled to respond in like manner, and it is absolutely necessary in order to maintain the credit of the government.

The method of raising revenue by licenses is most objectionable and is rarely resorted to by any government except in cases of considerable necessity. To impose a tax on any pro-

fession, trade, or occupation is an unjust discrimination. It compels one class of the people to bear an undue proportion of the burdens of the government. Licenses are in restraint of trade and business. With an efficient assessment law, and with remedies and machinery to enforce prompt payment of the taxes—and with officers of capacity, integrity, and vigilance to assess property and collect the taxes, and with rigid economy, I have no doubt that the rate of taxation for all purposes can be safely reduced by the next legislature to five mills on the dollar, and that all licenses may be abolished. If such legislation finds favor with your honorable bodies in this session, I unhesitatingly recommend that it be supplemented by an act repealing all laws imposing licenses, to take effect on the first day of December next, except on such occupations as are hurtful in their influences.

The subject of taxation, gentlemen, requires your most serious attention. Every branch of the government depends upon the revenues.

I call your especial attention to the Territorial library and the report of the librarian. That institution is growing into importance. From the time letters came into use, accumulation and preservation of manuscripts and books have been considered the highest evidences of progress. The benefits of libraries are so well understood that they need not be enumerated. Santa Fe, her buildings, and the old documents that have survived decay, and in some instances positive vandalism, are interesting and valuable, because if there is anything in the United States which runs back into antiquity it will be found here. Through the courtesy of the several states and territories, we are furnished with their acts and reports, as well as those of the general government. Authors are in the habit of contributing copies of their works to the public libraries. From such sources, and without cost to the Territory, valuable books are accumulating. Little care has been given to this collection, and much of the benefits of the library are lost from the want of system and catalogue. The rooms are unsuitable and totally without furniture. It cannot be expected that the library will be well managed on the salary now paid. I recommend that the salary of the li brá-

rian be raised to such a sum as will justify him in giving all his time to his work, and that an appropriation be made to provide suitable rooms and to furnish them.

Several public spirited and enterprising citizens have organized a historical society, at Santa Fe, and under difficulties are endeavoring to develop an interest in the history of this remarkable country. The tendency of the human mind is to learn as much as possible of the ideas, civilization, religion and practices of the people of past ages. As in the Spanish portion of North America was found a nearer approach to civilization among the primeval inhabitants than anywhere else, curiosity and interest cluster around every locality thus distinguished and especially around New Mexico, the legendary birth place and home of Montezuma. The history of nearly every section of the United States has been written in full and complete form, yet whatever has been said concerning this section can be found only in fragmentary and fugitive writings so that it is almost impossible to acquire a complete knowledge of events that have transpired in this wonderful land. It is the object of the Historical Society to develop a knowledge of New Mexico in the past and to supply to the people here, and of the world; the antique and curious facts which constitute the history of the Territory before and after the conquest by the Spaniards. If the efforts of this society are successful much valuable information will be accumulated and great interest will be manifested not only in Santa Fe but in the whole of our Spanish provinces. I commend this society to your generous consideration, and recommend that you make some provision to aid it in the object it desires to accomplish.

Until within a few years the legislature had followed a practice in repealing laws, which experience has shown to be unwise, and that was by repealing acts and parts of acts which were in conflict with the act passed. This left room for wide difference in construction. It has become a constitutional provision in some of the States to require the repealing act to especially state the acts and parts of acts repealed, and when an act is amended, that as amended it be re-enacted. This method should be followed in all cases as thereby confusion and misunderstanding will be avoided.

In examining the statutes passed since New Mexico has been a Territory of the United States I have discovered that the legislatures have indulged freely in local and special legislation. There has been, however, a decided improvement recently. The members whose whole services belong to the public ought not to permit their time to be consumed with attention to local affairs and private interests. All citizens before the law must be treated as equal in rights, privileges and protection. Class legislation is incident to aristocratical and monarchical governments, and should never be allowed under a government by the people. Laws granting corporate rights, establishing roads, regulating acequias, and inclosures, emancipating minors, legitimizing children and on all similar subjects should be general, and applicable alike to the whole body of the citizens. It should be a clear case when justice cannot otherwise be done, or entirely isolated from the mass, that would justify the passage of a private or local act.

I have submitted to you, gentlemen, such suggestions as seem to me proper, and such as have occurred in the investigations I have made as to the condition and wants of the Territory. Although not chosen to my present office by the people, and being a comparative stranger, I hope the sequel will show that the legislative and executive branches will work in a spirit of entire harmony, and that each will strive to out do the other in efforts to advance the common welfare. All will agree that methods should be systematic for conducting all departments—that nothing should be left to chance or caprice—that nothing should be left to the discretion of any individual—that nothing should be left to the discretion of any individual—that nothing should be left to the discretion of any individual.